

## HUMAN SERVICES BOARD

# INTRODUCTION

## DISCUSSION

The Board received the petitioner's request for a fair hearing in this matter on August 11, 2006. Following a status conference held on September 18, 2006, the Department conducted a "Commissioner's Review" of the case and issued a written decision regarding that review on September 25, 2006. Inasmuch as that decision provides a succinct and thorough recitation of the undisputed facts and legal issues in this matter, it is incorporated by reference as to the applicable facts and law in this matter.

At a status conference held on September 27, 2006 the petitioner represented that she did not disagree with any of the recitation of facts or applicable policies contained in the above referenced decision. She conceded that every notice she received from the Department was timely, and that each specified a "Payment Start Date" and a "Payment End Date" that were one year apart. She could point to nothing in the notices or oral information that she received from the Department that would have led her to assume or believe that the level of subsidy she had received for that year was an open-ended entitlement based on her level of income.

The Board is bound to affirm the Department if its decision is based on accurate facts and is in accord with pertinent law and regulations. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17. The fact that a recipient of benefits or services from the Department may have misunderstood a notice or a Department policy (an occurrence that is extremely common and in many cases probably unavoidable) cannot, in and of itself, form a basis for relief. The law clearly requires that it must be shown that the Department, itself, was directly responsible for that misunderstanding and that the recipient relied to her detriment on that

erroneous or misleading information. See *Stevens v. D.S.W.*, 159 Vt. 408 (1992).

The petitioner in this case may well have been surprised by the elimination of her child care subsidy, and undoubtedly is facing an unplanned-for hardship because of it. However, it cannot be concluded that the Department's decision in the matter was not based on an accurate determination of the petitioner's circumstances and application of its regulations and policies, or that it is otherwise unfair or inequitable.

ORDER

The Department's decision is affirmed.

# # #